

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on 3/15/04.

I. DISPUTE

Whether there should be additional reimbursement for durable medical equipment for dates of service (DOS) 3/13/03 HCPCS code E1399-RR, 4/13/03 HCPCS code E1399-RR and 6/27/03 HCPCS code E1399-NU. The Carrier denied reimbursement as “U YU – This service has been deemed unnecessary medical treatment based on a review of the claim file, billing records, and/or written review protocols established for appropriate health care treatment. M YM – The reimbursement for the service rendered has been determined to be fair and reasonable based on billing and payment research and is in accordance with Labor Code 413.011(D). O YO – Reimbursement was reduced or denied after reconsideration of treatment /service billed.”

II. FINDINGS

Pursuant to Rule 133.308(i)(8), the Commission previously dismissed the medical necessity components as the file contained only unresolved medical fees issues.

III. RATIONALE

Texas Labor Code 413.011 (d), Commission Rule 133.307 (g)(3)(D) and Rule 133.304 (i)(1-4) places certain requirements on the Carrier when reducing the services for which the Commission has not established a maximum allowable reimbursement. The Respondent is required to develop and consistently apply a methodology to determine fair and reasonable reimbursement and explain and document the method used for the calculation. The Respondent submitted a methodology that states, “This fair and reasonable reimbursement is based on the following rationale. The amount was calculated by using the allowable amounts in the 1991 Medical Fee Guidelines for code D0550 (muscle stimulator). The listed amount for the code is \$150.00 rental per month, with purchase price of \$1050 (less the first month’s rental) the same amount reimbursed by the carrier...” “...The code is an unlisted code and has no MAR for this code. Therefore, any payment has to be a fair and reasonable payment.” The Requestor billed \$250.00 for DOS 3/13/03, \$250.00 for DOS 4/13/03 and \$2,495.00 for DOS 6/27/03.

Per Rule 133.307 (g)(3)(D), the Requestor is also required to discuss, demonstrate and justify that the payment being sought is a fair and reasonable rate of reimbursement. The Requestor has provided redacted sample EOBs as evidence that the fees billed are for similar treatment of injured individuals and that reflect the fee charged to and paid by other carriers. Only one EOB met the criteria. The other two redacted EOBs do not list a diagnosis code.

The Respondent in this case has provided a methodology as required by the rule while the Requestor's redacted documentation does not sufficiently justify that the Respondent's reimbursement was not fair and reasonable. The Respondent reimbursed the Requestor \$150.00 for E1399-RR, \$150.00 for E1399-RR and \$900.00 for E1399-NU. Therefore, no additional reimbursement is recommended.

III. DECISION

Based upon the review of the disputed healthcare services within this request, the Division has determined that the Requestor **is not** entitled to reimbursement.

The above Decision is hereby issued this 20th day of April 2004.

Pat DeVries
Medical Dispute Resolution Officer
Medical Review Division

PD/pd